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January 18, 2013

Senate President John J. Cullerton
Illinois Senate
98th General Assembly
160 N. LaSalle
Ste. 720
Chicago, IL 60601

Re: **Enforcement of Ethical Violations in Unincorporated Districts**

Dear Senator Cullerton:

This letter is written to respectfully request your consideration for a proposed amendment to the Illinois State Officials and Employees Ethics Act (the "Ethics Act").[1] Our premise is that the State of Illinois enacted legislation authorizing the establishment of unincorporated districts that are not subject to oversight and enforcement by local units of government that appoint the trustees to their positions. Specifically, in districts where voters have not chosen to elect the trustees, the Presiding Officer is granted authority to appoint trustees to unincorporated Districts. As such, the President of the Cook County Board of Commissioners appoints trustees to the Board of Trustees for the Northfield Woods Sanitary District ("Northfield Woods") with the advice and consent of the Board of Commissioners.[2] During a review of Northfield Woods, we found multiple ethical violations committed by Northfield's Trustees although no clear line to enforce the violations currently exists.

During our review, we discovered that the Northfield Woods Trustees were not only exceeding the statutory $6,000 pay limitation for trustees but were also paying themselves a salary to perform other duties as employees for the District. Please refer to the attached public statement concerning the details surrounding the breaches of fiduciary duty and our inability to hold certain public appointees accountable. Under the Cook County Ethics Act, the Trustees would have been in violation of the provisions against improper influence and conflicts of interest if the act clearly extended to those positions.[3] As such, Northfield Woods' Trustees, who are appointed by the Cook County Board President, are not held to the same ethical standards as Cook County employees. Moreover, the Illinois Ethics Act does not address these specific violations of fiduciary duty. Accordingly, this proposed amendment will subject trustees to ethical standards that will be monitored and enforced by the County that was responsible for their appointment to such positions. We also believe our

[1] 5 ILCS 420, *et. Seq.*
[2] The Cook County Board President appoints trustees and board members to numerous unincorporated districts, boards and commissions.
[3] *See* attachment B; Sec. 2-572(a) Improper Influence and Sec. 2-578(a)

circumstances are not unique and this State amendment is needed to improve ethical standards throughout the State of Illinois.

We believe this is an important measure that will help support a culture of transparency and accountability in Cook County and similarly situated counties in Illinois. We believe that a modification to the Ethics Act would be an efficient and effective means to impose comprehensive and necessary ethical standards upon Trustees and other appointed officials of unincorporated districts. Accordingly, we have attached hereto proposed modifications to legislative language contained in the Ethics Act.

Thank you for your time and consideration to this matter. Should you have any questions or wish to discuss these issues further, please do not hesitate to contact me.

Very truly yours,

Patrick M. Blanchard
Independent Inspector General
(312.603.0364)

cc: Dave Gross, Chief of Staff, Senate President
Eric Madiar, Chief Legal Counsel & Parliamentarian
Tirrell Paxton, Deputy Inspector General

encl.

§ 5 ILCS 420/3A-45. Appointments by local units of government; ethics and oversight

Any appointed member of a board, commission, authority or task force created by State law or by executive order of the Governor who is appointed by a local unit of government shall be bound by ethics laws and policies of the unit of local government making the appointment and shall also be subject to the jurisdiction of the unit of local government's inspector general and the inspector general's enabling legislation.

Sec. 2-572. - Improper influence.

(a) No official or employee shall make, participate in making or in any way attempt to use the official position to influence any County governmental decision or action in which the official or employee knows, has reason to know or should know that the official or employee has any economic interest distinguishable from that of the general public of the County.

(b) No official or employee shall make, participate in making or in any way attempt to use their official position to influence any County governmental decision or action, including decisions or actions on any Cook County Board Agenda Item, in exchange for or in consideration of the employment of said official's or employee's relatives, domestic partner or civil union partner by any other official or employee.

(Ord. No. 93-O-29, § 2.2, 8-3-1993; Ord. No. 99-O-18, § 2.2, 6-22-1999; Ord. No. 04-O-18, § 2.2, 5-18-2004; Ord. No. 11-O-41, 3-15-2011.)

Sec. 2-578. - Conflicts of interest.

(a) No official or employee shall make, or participate in making, any County governmental decision with respect to any matter in which the official or employee, or the spouse, or dependent, domestic partner or civil union partner of the official or employee, has any economic interest distinguishable from that of the general public. For purposes of this section, the term "dependent" shall have the same meaning as provided in the U.S. Internal Revenue Code, as amended.

(b) Any employee who has a conflict of interest as described by Subsection (a) of this section shall advise his or her supervisor of the conflict or potential conflict. The immediate supervisor shall either:

(1) Assign the matter to another employee; or

(2) Require the employee to eliminate the economic interest giving rise to the conflict and only thereafter shall the employee continue to participate in the matter.

(c) Any official or employee who has a conflict of interest as described by Subsection (a) of this section shall disclose the conflict of interest in writing the nature and extent of the interest to the Cook County Board of Ethics as soon as the employee or official becomes aware of such conflict and shall not take any action or make any decisions regarding that particular matter. A Cook County Board Commissioner shall publicly disclose the nature and interest of such interest on the report of proceedings of the Cook County Board of Commissioners, and shall also notify the Cook County Board of Ethics of such interest within 72 hours of introduction of any ordinance, resolution, contract, order or other matter before the Cook County Board of Commissioners, or as soon thereafter as the Commissioner is or should be aware of such conflict of interest. The Board of Ethics shall make all disclosures available for public inspection and copying immediately upon request.

(Ord. No. 93-O-29, § 2.8, 8-3-1993; Ord. No. 99-O-18, § 2.8, 6-22-1999; Ord. No. 04-O-18, § 2.7, 5-18-2004; Ord. No. 11-O-36, 3-15-2011; Ord. No. 11-O-44, 4-20-2011.)

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April 27, 2012

Honorable Toni Preckwinkle
and Members of the Board of Commissioners
of Cook County
118 North Clark Street
Chicago, Illinois 60602

Re: IIG11-0047 (Northfield Woods Sanitary District, Glenview, Illinois)

Dear President Preckwinkle and Commissioners:

This letter is written in accordance with Section 2-289(c)(2) of the Independent Inspector General Ordinance, Code of Ordinances, Cook County, Illinois ch. 2, art. IV (2007) (the "OIIG Ordinance"), in connection with a management review conducted in relation to the Trustees of the Northfield Woods Sanitary District. In accordance with the Ordinance, this statement is made to apprise you of the completion and results of this review.

Background

The President and the Board of Commissioners have a vested interest in assuring that their appointees can be relied upon to carry out their fiduciary duties and responsibilities to the taxpayers and sanitary system users of the District. The review by this office focused on determining whether the management of the District by the Board of Trustees has been effective and in accordance with their fiduciary duties and responsibilities.

In the State of Illinois, five acts under Chapter 70 of the Illinois Compiled Statutes authorize the establishment of sanitary districts. The Northfield Woods Sanitary District (hereinafter the "District") was established under the authority of the Sanitary District Act of 1936 ("the Act").[1] The Board of Trustees is the corporate authority of the District and it exercises the powers to manage and control all the affairs and property of the District. In districts where the voters have not chosen by referendum to elect the Trustees, the Presiding Officer of the County Board appoints the Trustees with the advice and consent of the County Board. In Cook County, the appointment or re-appointment of Trustees to numerous different sanitary districts are or will be up for consideration in the near future.

[1] 70 ILCS 2805, *et seq.*

Summary

The Northfield Woods Sanitary District was formed in 1956 to provide sanitary sewer service to an area in then-unincorporated north Cook County which is bounded approximately by the Tri-State Tollway and Willow Road to the North, Milwaukee Avenue and the Forest Preserve District on the West, the Timber Trails and Forest Drive Subdivisions on the South, and Landwehr Road on the East. The District consists of 1,230 acres and contains approximately 1,800 homes and apartments and 400 acres of commercial property. The District's Board consists of three Trustees, including a Trustee President and a Trustee Vice President. A third Trustee has at times been referred to as a Trustee Secretary, a Trustee Vice President, or a Trustee Clerk.

Although not intended to present a broad overview of the District's financial status, the following information is offered for purposes of considering these findings with added perspective. At its April 30, 2011 fiscal year-end, the District's total net assets were valued at $3,638,976 – ninety-four percent (94%) of which were capital assets (e.g., equipment and sewer system). The District's revenues were recorded as $527,429, the bulk of which came from property taxes ($303,138) and sewer user fees ($192,070). The District's expenditures were recorded as $434,814, with the largest expenditures attributable to payroll ($142,632), professional fees ($86,832), and insurance ($84,453).

During the course of this investigation, we reviewed the District's business records for the years 2008 through October 2011. These records included the Board of Trustees' public meeting minutes, attorney billing records, retirement account records, payroll journals, copies of Federal and State income tax and employment tax returns, independent audit reports, periodic income and expense reports, and other financial documents. We also conducted interviews of each of the Trustees.

Based on the findings discussed in the following sections, it is the conclusion of this office that the Board of Trustees mismanaged the District by failing to carry out its fiduciary duties and responsibilities to the people of the District. A fiduciary is a person who is required to act for the benefit of another, putting the interests of the other above those of his own and exercising a high standard of care in managing the other's money and property. Those persons entrusted with positions of responsibility – such as the Trustees of a sanitary district – owe their fiduciary duty to the public.[2] *See People v. Savatano*, 66 Ill. 2d 7, 12 (1976); *In re Donald Carnow*, 114 Ill. 2d. 461, 470 (1986)(holding a public official is a fiduciary to the public entity he or she serves).

[2] According to the minutes of a Board of Trustees Executive Session meeting on March 2, 2010, a former Attorney for the District "reminded the Trustees of their fiduciary duty, meaning they as Trustees are tasked with looking out for the best interests of the District residents/taxpayers, as opposed to their own individual best interests."

OIIG Findings and Conclusions

The following findings and conclusions encompass the most significant issues developed during the investigation:

1. The Board of Trustees' Statutory Authority and Fiduciary Duty.

Although the Act permits the Board to "appoint such other officers and hire such employees to manage and control the operations of the district as it deems necessary" and to "prescribe the duties and fix the compensation of all the officers and employees of the sanitary district," the Act unequivocally states that, "[h]owever, no member of the board of trustees shall receive more than $6,000 per year." Yet, we have determined that since at least 2008 (and for an undetermined number of years prior), the Trustees have been paying themselves a salary to perform other duties on behalf of the District in addition to their $6,000 annual Trustee's fee. From the first calendar quarter of 2008 through the third calendar quarter of 2011, the three Trustees paid themselves approximately $263,863 in salary.[3]

The Trustees have attempted to justify the payment of salaries to themselves based on the extremely questionable legal opinion of the attorney who currently serves as the District's retained legal counsel (and who has represented the District since 1978). The District's legal counsel had advised the Trustees that "there was no case law on the subject, but it has been his interpretation based on a [Sanitary District] Board decision in the early 1970's that if the Trustees were performing work that the District would otherwise have to pay for, the Trustees are entitled to additional compensation, which must be reasonable based on the work done and must be separately accounted for."[4] The District's Attorney/Clerk "further indicated that since the current amounts are reasonable and separately accounted for, he saw no issues."[5]

If the Trustees were subject to the provisions of the Cook County Code of Ethical Conduct, they would be in violation of Sec. 2-572(a) – Improper influence[6] and Sec. 2-578(a) –

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[3] The Trustee President received the largest percentage of the salary payments and the evidence indicates that he was substantially involved in the day-to-day operational and administrative activities of the District and was doing the majority of its work. In this regard, he should have been an employee of the District and not a Trustee. The other Trustees appeared to be involved in few substantial operational activities of the District in addition to their Trustees' duties for which they received their "Trustee's fee" of $500 a month (i.e., the statutory limit of $6,000 per year divided by 12 months).

[4] Taken from the February 3, 2010 Executive Session meeting minutes of the Board of Trustees.

[5] This office disagrees with this opinion in light of the common law applicable to a fiduciary. The common law doctrine that "the faithful performance of official duties is best secured if a governmental officer, like any other person holding a fiduciary position, is not called upon to make any decisions that may advance or injure his individual interest." *City of Chicago v. Cohen*, 64 Ill. 2d 559, 565 (1976), *citing Brown v. Kirk*, 64 Ill. 2d 144, 149 (1976).

[6] Sec. 2-572(a) states: "No official or employee shall make, participate in making or in any way attempt to use the official position to influence any County governmental decision or action in which the official or employee knows, has reason to know or should know that the official or employee has any economic interest distinguishable from that of the general public of the County."

Conflicts of Interest.[7] However, it is unclear whether the Code is applicable to a Trustee who is appointed by the County Board to a position in an entity created by State statute, but which has no other nexus to County government. The County's Code covers appointed officials "of any agency of the County."

As a creature of statute, the Board of Trustees has only those powers that are conferred upon it by law and any action it takes must be authorized by its enabling legislation (i.e., the Sanitary District Act of 1936). *See Homefinders, Inc. v. Evanston*, 65 Ill.2d 115, 129 (1976). The Act's unequivocal statement that "no member of the board of trustees shall receive more than $6,000 per year" allows for no exceptions which would permit the Trustees to receive more than that amount. Such an opinion, as that rendered by the District's retained counsel, would essentially permit a Board of Trustees established by the Act and whose sole authority is based upon the Act, to simply make a "decision" granting it an "exception" to the provisions of the Act itself. Again, the Act offers the Board no authority to implement any such exception to circumvent the enabling legislation.

Although the Act authorizes the Trustees to hire the employees necessary to carry out the functions of the District, it does not provide that the Trustees may hire themselves, which is what the Trustees did here. Instead of advertising the positions and conducting a search for qualified candidates at a competitive rate, they gave the employment positions to themselves without letting members of the public compete for them.

In addition to acting beyond its authority under the Act, these decisions are also problematic because it is the Board's responsibility to set the compensation of the District's employees, to see that the compensation is reasonable based on the work that is done and to perform such duties objectively and without conflicts of interest. Moreover, the Board is also charged with the responsibility to oversee the quality of the work performed on behalf of the District. By treating themselves as employees and paying themselves a salary, the Trustees created an inherent conflict of interest by deciding what amount of compensation, in their opinion, is reasonable to pay themselves. Simply put, the Trustees cannot objectively exercise their fiduciary responsibility to the public when they are deciding to hire themselves over any other and set their own compensation as Trustees/employees. "This conflict of interest theory is based on the fact that an individual occupying a public position uses the public trust imposed upon him and the position he occupies to further his own personal gain and it is the influence he exerts in his official position to gain personally in spite of his official trust which is the evil the law seeks to eradicate." *Brown v. Kirk*, 64 Ill. 2d 144, 151 (1976).

[7] Sec. 2-573(a) states: "No official or employee shall make, or participate in making, any County governmental decision with respect to any matter in which the official . . . has any economic interest distinguishable from the general public."

2. The Accrual of Unauthorized Financial Benefits.

Deferred Compensation Plan

The District has a deferred compensation plan covering all the Trustees. The plan provides for annual contributions which are based on a defined formula and made at the discretion of the District. Benefits are available to the participants once they cease to be a member of the Board of Trustees, attain age 60, and have provided at least eight years of service to the District. Two of the Trustees are currently eligible for benefits immediately upon their cessation of service as trustees. The remaining Trustee has the requisite eligibility in terms of service but not age.

All compensation deferred under the plan, all rights and property purchased with those amounts and all income attributable to the same are vested in the beneficiaries (i.e., the Trustees). The District may amend the plan, however, such an amendment could not reduce or eliminate any participant's existing vested right to receive deferred compensation which may exist on the date such amendment would be proposed.

The District contributed $40,000, initiated and approved by the beneficiaries, to the deferred compensation plan during fiscal year ending April 30, 2010. Of that amount, $20,000 of the contribution was for the fiscal year ended April 30, 2009, and $20,000 was for the year ended April 30, 2010. According to the District's independent auditor's report, as of the District's fiscal year ending April 30, 2011, the deferred compensation plan had assets valued at $204,000.

The Act contains no provision authorizing the establishment of, or contribution to, such a benefit plan. Since each of the Trustees now have a non-forfeitable right to benefits under the plan (barring, for example, attachment due to the District's bankruptcy or insolvency), the value of the contributions made to the plan on their behalf should also be viewed as amounts in excess of the Act's provision restricting a Trustee from receiving more than $6,000 per year.

Simplified Employee Pension Plan

The District has a Simplified Employee Pension Plan ("SEP Plan" or "Plan") covering all the District's "employees." The SEP Plan provides for annual contributions based on a percentage of salaries and are made at the discretion of the District. The investments are directed by the participants of the Plan and the District has no liability for losses under the Plan. Since at least 2008, the annual pension contribution rate has been 12% of the employees' salaries.

As previously indicated, the Trustees in effect deemed themselves to be employees and paid themselves salaries. Based on those salaries, the Trustees received a SEP contribution. In addition, as outlined below, during certain periods of time and under questionable circumstances, the District's retained Attorney/Clerk and Treasurer/Accountant were also paid salaries and received SEP contributions.

According to the District's independent auditor's report, for the fiscal years ending April 30, 2008, April 30, 2009, April 30, 2010, and April 30, 2011, the Board of Trustees authorized payments to the SEP Plan of $14,158, $13,762, $13,282, and $14,746, respectively, for a total of $55,948 during the four-year period.

The Act contains no provision authorizing the establishment of, or contribution to, a pension plan. In addition, since each Trustee was already receiving a Trustee's fee of $6,000 a year, any payments made on their behalf to the pension plan were in excess of the Act's provision restricting a Trustee from receiving more than $6,000 per year.

3. **Failure of the Trustees to Reduce the District's Legal Costs and Unjustifiable Expenditures.**

Legal Fees

Until June 2008, the District paid a monthly legal retainer of $4,650 ($55,800 a year) to the law firm which included the District's current retained Attorney and a former Associate Attorney. In June 2010, that retainer was increased to $7,000 per month ($84,000 a year) for the newly-formed joint venture of the District's current retained Attorney and the same Associate Attorney. According to the "co-counsel agreement" between the two Attorneys, the fees for the monthly retainer were required to be split evenly between the two. In 2011, when it became apparent that the then-Attorney Associate was leaving the practice subsequent to mid-year (thus terminating the co-counsel agreement), the District's current retained Attorney made inquiries as to whether the retainer would remain at $7,000 (and be solely his retainer).[8] Rather than take the opportunity to reduce its legal costs, the Board voted to keep the retainer at $7,000 a month for the current retained Attorney.[9]

One might argue that with the departure of the Associate Attorney, the District's retained Attorney would then be required to do twice the amount of work he formerly did. However, we would question such a position based on a review of the Board's meeting minutes which tend to indicate that the Associate Attorney was the one who appeared to address the substantial majority of the District's legal matters.

In addition to receiving a retainer, the District's Attorneys were allowed to separately bill and receive payment for so-called "Ordinance 50" work. Ordinance 50 work may be generally described as the legal work associated with the collection of fees relating to the cost of permits, engineering reviews, inspections, and legal expenses involved in the installation and connection of all the components of the sanitary system to the District's commercial and residential users. During the time period reviewed, the Ordinance 50 work billing rate for the Attorneys ranged from approximately $300 to $375 per hour. In addition, the District's long-time retained

[8] The retained Attorney received the full retainer amount regardless of the amount of legal work performed.
[9] The Trustee President voted against the $7,000 per month retainer indicating that he preferred the retainer go back to its previous level of $4,650 per month.

Attorney was allowed to separately bill for periodic "special research," typically at a rate of $375 an hour.

It was noted during our review that there was the lack of any written legal retainer agreement specifying which legal services were attributable to coverage by the retainer versus those services that could be billed-for separately. The lack of a written scope of work agreement exposed the District to a billing environment that is ripe for abuse.

It should be noted that we did not expand the scope of this review by conducting an analysis to ascertain whether the legal fees charged were justified because this office does not have jurisdictional authority over the contractors, service providers and employees of the District as opposed to the Trustees. As such, we recommend that a careful review of the billing practices be undertaken in light of the extremely high percentage of legal costs generated in relation to the size of the District and complexity of the legal issues it has faced since 2006. This is especially necessary because we have found no evidence that the Board of Trustees has considered other legal options or otherwise brought the District's need for legal services to market to seek competitive rates.

Converting to Compensation the Value of Health Benefits[10]

During his tenure on the Board, the Trustee Vice President received health insurance coverage as a result of his regular employment and, therefore, he had no need for District-provided health insurance. Because the Trustee Vice President had "not been receiving the benefit of the [District-paid] insurance as the other Trustees" had, it was decided – using the justification that he would "begin assuming the additional responsibilities of inspecting the District's buildings and grounds" – that the Trustee Vice President would receive a $1,200 a month salary increase.[11]

The Trustee Vice President was already receiving an employee salary of $800 a month at the time ($9,600 a year) and $500 per month Trustees' fee ($6,000 per year). The $1,200 a month salary increase (an additional $14,400 a year) only served to put him further in excess of the Act's provision restricting each Trustee from receiving more than $6,000 per year.[12]

Appointment of Independent Contractor Attorney to position of District's Clerk

As indicated above, the Act states that the Board of Trustees may arrange to provide insurance for the benefit of employees and Trustees of the sanitary district. The Act also states that the "board of trustees at the beginning of each new term of office shall meet and elect one of

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[10] The Act states that the Board of Trustees "may arrange to provide for the benefit of employees and trustees of the sanitary district group life, health, accident, hospital and medical insurance" and the "board of trustees may provide for payment by the sanitary district of the premium or charge for such insurance."

[11] February 3 and March 3, 2010 Executive Session meeting minutes of the Board of Trustees.

[12] The Trustee President inquired about whether such a salary increase decision should involve a second independent opinion.

their number as president, one of their number as vice-president, and from or outside of their membership a clerk and an assistant clerk." In addition, "the board may select a treasurer, engineer and attorney for the district, who shall hold their respective offices during the pleasure of the board, and give such bond as may be required by the board."

In January 2005, the Board appointed the District's then-and-current retained Attorney (who had represented the District since 1978) to the position of the District's Clerk replacing one of the Trustees who was serving in this dual capacity. Up until that time, the District's Attorney served as an independent contractor of the District with a monthly retainer agreement for approximately $4,650 per month. With his appointment to Clerk, in addition to his retainer, the Board conferred upon him employee status and also provided the now-Attorney/Clerk with a monthly salary of $800 a month ($9,600 a year). Significantly, this appointment also resulted in the District paying the Attorney/Clerk's full monthly health insurance premiums of approximately $1,060 to $1,280 per month (an annual cost of approximately $12,720 to $15,360, depending on the year). In addition, the Attorney/Clerk received an annual contribution to the District's SEP Plan based on a percentage of his salary. Since at least 2008, the contribution rate has been 12% of the employee's salary, thus the annual contribution would have been $1,152.

We have been unable to ascertain any benefit to the District by the appointment of the then-independent contractor Attorney to the position of the District's Attorney/Clerk. Importantly, when the Attorney/Clerk resigned as "Clerk" effective June 30, 2011 (at which time he was eligible for Medicare coverage) and again became the District's independent contractor Attorney on retainer, one of the Trustees reassumed the Clerk's position and duties without any salary or benefit increase. This fact indicates that the work required of the Clerk position did not necessitate any salary or benefits above and beyond what a Trustee already received. Yet, the District allowed the expenditure of additional salary and benefits valued at approximately $23,472 to $26,112 a year during the time the Attorney/Clerk held the position.

We note that in conjunction with the District paying his full health insurance premiums, the Attorney/Clerk enjoyed the added benefit of extremely favorable tax treatment of his salary. In addition to himself, the Attorney/Clerk had another family member covered under the State of Illinois' Local Government Health Plan in which the District participated and he had his entire salary of $800 a month ($9,600 a year) applied to pay the extra premium cost for covering the family member. As a result, the Attorney/Clerk's entire salary of $9,600 a year was not includible as taxable income on his IRS Form W-2, nor subject to FICA (i.e., Social Security tax) or Medicare tax, since [pursuant to Section 125 of the Internal Revenue Code concerning cafeteria plans] the entire salary amount was used to pay for health insurance premiums.

Appointment of Independent Contractor Accountant
to position of District's Treasurer

In January 2005, the Board also appointed an independent contractor accountant to the position of the District's Treasurer. With his appointment to Treasurer, the Board conferred upon him employee status and also provided him with a monthly salary of $800 a month ($9,600

a year). Again, this appointment resulted in the District paying the Treasurer's full monthly health insurance premiums of approximately $1,060 to $1,280 per month (an annual cost of $12,720 to $15,360, depending on the year). Also, the Treasurer received an annual contribution to the District's SEP Plan based on a percentage of his salary. (Since at least 2008, the annual contribution would have been $1,152.) In addition, the Treasurer was still allowed to separately bill the District at a rate of $250 per hour for anything deemed to be above and beyond the District's day-to-day financial activities. Again, there appears to have been little need by the District to appoint an independent contractor accountant to the position of Treasurer when his accounting and tax services could have been obtained and negotiated on an as-needed hourly basis.

The Treasurer resigned effective June 30, 2011 (at which time he was eligible for Medicare coverage) and became an independent contractor accountant on retainer for the District.

Converting to Compensation the Value of Health Benefits on behalf of the District's Attorney/Clerk and Treasurer

Once the Attorney/Clerk and Treasurer resigned effective June 30, 2011 and again became independent contractors, their retainer agreement amounts – $7,000 a month ($84,000 a year) for the now-independent contractor Attorney – and $2,200 a month ($26,400 a year) for the now-independent contractor Accountant, were calculated taking into consideration the value of the premiums that the District had previously paid on their behalf.

Specifically, the Board of Trustees' Executive Session meeting minutes for July 2011 state: "It should be noted that in both cases the increase in retainer was reflective of the respective loss of insurance coverage by the parties as employees of the District."

OIIG Recommendations

In accordance with the OIIG Ordinance, the following recommendations are offered for your consideration in assessing the pattern of inefficient and wasteful management practices occurring in the operation of the Northfield Woods Sanitary District. This review demonstrates the potential for mismanagement of taxpayer resources when there exists a lack of adequate oversight and insufficient internal controls and guidelines. These recommendations are also designed to minimize an existing vulnerability in relation to all of the districts in which the Cook County Board of Commissioners has appointment authority. However, in light of the fact that such districts are a creation of State law, it may be necessary to seek support from the Illinois legislature by amending the Sanitary District Act of 1936 and related legislation to achieve the most effective preventative measures.

As discussed above, there remains a question of whether the Cook County Code of Ethics extends to officials appointed by the Board of Commissioners to districts such as Northfield Woods. We believe that it is essential that the public officials representing the District and its

similar districts have clear and unambiguous guidance the Code of Ethics provides to the circumstances encountered here.[13] This may be accomplished through an amendment to the Act specifying that any Code of Ethics applicable to the county in which a district is located shall extend to the officials, employees, contractors and providers of the district. In the absence of an amendment to the State law, any appointment made by President and confirmed by the Board of Commissioners should be expressly contingent upon the appointee being subject to the Code of Ethics, as well as yearly training offered through the Cook County Board of Ethics.

In addition, it is suggested that consideration be given to requiring all existing board appointees to appear on annual basis before the Board of Commissioners, or a subcommittee thereof, to provide a report of the financial and operational activities of their respective entities.[14] This requirement would also provide the Board with the opportunity to question the appointees regarding the operations of their entity and address any operational concerns.

We also recommend that any appointee confirmed by the Board of Commissioners be subject to a provision, whether contained in the Act or as a condition of the appointment, allowing for the Board to recall its confirmation of an appointee for cause. Moreover, it is recommended that the activities of any district employee, contractor or provider be subject to the jurisdiction of an oversight agency, whether it be the OIIG or similar agency. In other words, the lack of a "check and balance" system leaves such districts vulnerable to episodes of mismanagement.

The scope of this review has not included an analysis of whether the continued operation of the District or dissolution of the District and transfer of its functions to the municipalities is in the best interest of the people of the district.[15] However, to the extent that the continued necessity of the operation of the District becomes a consideration, we note that a key original purpose of the Act was to permit the incorporation of a sanitary district in any "contiguous territory within the limits of a single county and without the limits of any city, village or incorporated town." 70 ILCS 2805/1. Although the District may have encompassed an area outside the limits of any city, village or incorporated town when it was formed, currently, except for an approximate 244 acre unincorporated area upon which the Allstate Insurance corporate headquarters is situated (with a Northbrook mailing address), the District is entirely within the limits of the City of Glenview and a small portion of Prospect Heights.

The Act states that whenever the territory contained within a sanitary district is annexed to and wholly included in any municipality, within six months any 50 electors residing in the district may file with the clerk of the circuit court, a petition to submit a public question to

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[13] It is similarly unclear whether such appointees are required to adhere to the Illinois State Officials and Employees Ethics Act.

[14] Pursuant to Section 2-243 of the Cook County Code of Ordinances, commonly referred to as the Debt Disclosure Ordinance, "taxing districts" are already required to provide their most recent financial statements and make certain other financial disclosures to the Cook County Treasurer's Office, in electronic format, on or before the last Tuesday in December. Some of the taxing districts provide an Independent Auditor's Report to meet this requirement.

[15] We have been informed by an individual familiar with the District's function that the Village of Glenview could assume the functions of the District without the need to hire any additional staff.

referendum on whether the sanitary district should be dissolved. If no petition for referendum is filed within that six-month period, then that sanitary district is dissolved by operation of law and the municipalities within which the territory of the sanitary district is located, become responsible for the district's activities. Therefore, if it were not for the unincorporated Allstate Insurance Company property, it appears that the District would have already been dissolved by operation of law and the Cities of Glenview and Prospect Heights could have assumed the District's responsibilities. *See* 70 ILCS 2805/37.

Nonetheless, the Act provides that any sanitary district which does not have any unpaid revenue bonds outstanding may be dissolved when any 50 electors residing in the District petition the circuit court to have a question put on an election ballot as to whether or not the District should be dissolved. If a majority of the votes cast are in favor of dissolution, the organization shall cease, there will be no further appointments of Trustees, and the officers acting at the time of the vote shall close up the business affairs of the District and make the necessary conveyances of title to the Sanitary District property.

We hope this information will prove helpful and thank you for your consideration of these issues. Should you have any questions regarding this or any other matter, please do not hesitate to contact me.

Very truly yours,

Patrick M. Blanchard
Independent Inspector General
(312) 603-0364

cc: Mr. Kurt A. Summers, Jr., Chief of Staff
Ms. Laura Lechowicz Felicione, Special Assistant to the President
Mr. Kesner Bienvenu, Assistant Special Legal Counsel
Northfield Woods Sanitary District Board of Trustees